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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KLAMATH RIVERKEEPER, a project of the
Klamath Forest Alliance, a non-profit public
benefit corporation organized under the laws of
the State of California,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, STEPHEN L.
JOHNSON, as Administrator of the United States
Environmental Protection Agency, and WAYNE
NASTRI, as Regional Administrator of the United
States Environmental Protection Agency, Region
9,

Defendants.

Case No. 3:07-cv-03908-WHA

**ADMINISTRATIVE MOTION TO EXTEND
BRIEFING DEADLINE ESTABLISHED BY
CIVIL LOCAL RULE 16-5**

Civil L.R. 6-3, 16-5

Judge: Honorable William H. Alsup
Department: Courtroom 9, 19th Floor

Plaintiff Klamath Riverkeeper hereby moves this Court pursuant to Civil L.R. 6-3 to extend the deadline established by Civil Local Rule 16-5 for the filing of its motion for summary judgment in this case from December 5, 2007 to December 19, 2007. Klamath Riverkeeper attempted to obtain a stipulation from Defendants agreeing to this requested modification of the deadlines established by Civil L.R. 16-5, and though Defendants declined to enter into a stipulation, Defendants indicated they would not oppose this motion. *See* Declaration of Drevet Hunt in Support of Motion to Extend Briefing Deadlines Established by Civil Local Rule 16-5 (“Hunt Decl.”), ¶ 4.

I. DEADLINES ESTBALISHED BY CIVIL LOCAL RULE 16-5

Civil L.R. 16-5 provides:

In actions for District Court review on an administrative record, the defendant must serve and file an answer, together with a certified copy of the transcript of the administrative record, within 90 days of receipt of service of the summons and complaint. Within 30 days of receipt of defendant’s answer, plaintiff must file a motion for summary judgment pursuant to Civil L.R. 7-2 and FRCivP 56. Defendant must serve and file any opposition or counter-motion within 30 days of service of plaintiff’s motion. Plaintiff may serve and file a reply within 14 days after service of defendant’s opposition or counter-motion. Unless the Court orders otherwise, upon the conclusion of this briefing schedule, the matter will be deemed submitted for decision by the District Court without oral argument.

The Parties have agreed that this is a case for review on an administrative record and as such Defendants filed their answer and a certified copy of the index of the administrative record 90 days after being served with the Complaint, on November 5, 2007. *See* Joint Case Management Statement (Docket #13). Accordingly, pursuant to Civil L.R. 16-5, Klamath Riverkeeper’s motion for summary judgment is due on or before December 5, 2007.

II. REASONS FOR REQUESTED EXTENSION

Klamath Riverkeeper requests an extension of the deadline imposed by Civil L.R. 16-5 to (1) account for efforts currently underway to schedule and conduct mediation with Defendants and (2) to allow for the opportunity to discuss the briefing schedule with this Court in light of the recent transfer of this case from Judge Armstrong’s court.

Klamath Riverkeeper and Defendants have had several discussions, some assisted by the mediator assigned to this case pursuant to the Local ADR Rules, about the possibility of settling this matter. Hunt Decl., ¶ 3(a). In these discussions, the parties agreed that some modification of the briefing deadlines imposed by Civil L.R. 16-5 would be appropriate to allow the parties time to explore

1 whether the case could be settled without the expenditure of significant resources on litigation. Hunt
2 Decl., ¶ 3(a). The parties' agreement on a slightly expanded briefing schedule was reflected in the
3 Joint Case Management Conference statement filed with Judge Armstrong on October 31, 2007, before
4 this case was transferred to this Court. Hunt Decl., ¶ 3(b); *see* Joint Case Management Statement
5 (Docket #13).

6 The parties continue to agree that expanding the briefing schedule is warranted (though they
7 perhaps now disagree on exactly how long this briefing schedule should be extended, as will be
8 discussed in the parties forthcoming Revised Joint Case Management Conference Statement to be filed
9 with this Court by November 29, 2007). Hunt Decl., ¶ 3(b). The parties have scheduled a meeting on
10 November 29, 2007 to further explore mediation and to possibly schedule a mediation session in
11 December. Hunt Decl., ¶ 3(a). The extension requested would provide Klamath Riverkeeper with the
12 time warranted to fully explore mediation possibilities while also allowing the necessary time to brief
13 its motion for summary judgment.

14 The timing of the transfer of this case from Judge Armstrong to this Court necessitates this
15 Administrative Motion. While the parties' Joint Case Management Conference Statement filed before
16 Judge Armstrong requested an expanded briefing schedule, Judge Armstrong did not rule on the
17 parties' requested expanded briefing schedule before this case was transferred to this Court. Hunt
18 Decl., ¶ 3(b). The default deadline set by Civil L.R. 16-5 for Klamath Riverkeeper to file its motion for
19 summary judgment, however, falls before the new Case Management Conference set by this Court for
20 December 6, 2007. Hunt Decl., ¶ 3(b). To allow the parties the opportunity to request a modified
21 briefing schedule at this Court's forthcoming Case Management Conference, and to accommodate
22 meaningful exploration of mediation options in this case while leaving Klamath Riverkeeper with
23 reasonable opportunity to prepare its motion for summary judgment, Klamath Riverkeeper requests that
24 the briefing deadline set by Civil L.R. 16-5 be extended to December 19, 2007.

25
26 Respectfully submitted,

27 Dated: November 27, 2007

28 _____
/s/
Drevet Hunt
Attorney for Plaintiff
KLAMATH RIVERKEEPER